FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02–278; DA 10–997]

Consumer & Governmental Affairs Bureau Seeks Comment on a Petition for Expedited Clarification and Declaratory Ruling, Filed by Global Tel*Link Corporation (Global Tel), Concerning Applicability of the Telephone Consumer Protection Act and Federal Communications Commission Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on Global Tel*Link Corporation’s Petition for Expedited Clarification and Declaratory ruling concerning applicability of the Telephone Consumer Protection Act and its rules. Specifically, Global Tel asks the Commission to declare that the TCPA and associated FCC rules are inapplicable to Global Tel’s use of automatic notifications before completing calls to certain persons dialed by prison inmates.

DATES: Comments are due on or before July 15, 2010. Reply comments are due on or before July 26, 2010.

ADDRESSES: Interested parties may submit comments and reply comments identified by [CG Docket No. 02–278], by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission’s Electronic Comment Filing System (ECFS), through the Commission’s Web site: http://fjallfoss.fcc.gov/ecfs, or the Federal Rulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the Web site for submitting comments.

For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, which in this instance is [CG Docket No. 02–278]. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecf@fcc.gov, and include the following words in the body of the message, “get form <your e-mail address>.” A sample form and directions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the FCC continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Comment or Priority mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Karen Johnson, Consumer and Governmental Affairs Bureau, Policy Division, at (202) 418–7706 (voice), or e-mail Karen.Johnson@fcc.gov.


This is a summary of the Commission’s Public Notice DA 10–997, which seeks comment on Global Tel’s petition. Pursuant to 47 CFR 1.415 and 1.419 of the Commission’s rules, interested parties are invited to file comments and reply comments on or before the dates indicated above. This proceeding shall be treated as a permit-but-disclose proceeding under the ex parte rules, which are codified at 47 CFR 1.1200(a) and 1.1206. Therefore, ex parte presentations will be allowed but must be disclosed in accordance with the requirements of § 1.1206(b) of the Commission’s Rules, 47 CFR 1.1206(b). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission’s rules, 47 CFR 1.1206(b).

The full text of document DA 10–997 and any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document DA 10–997 and any subsequently filed documents in this matter may also be purchased from the Commission’s duplicating contractor at the contractor’s Web site, www.bcpwiweb.com, or by calling (800) 378–3160. Furthermore, document DA 10–997 and any subsequently filed documents in this matter may be found by searching ECFS at http://fjallfoss.fcc.gov/ecfs (insert [CG Docket No. 02–278] into the Proceeding block).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 10–997 can also be downloaded in Word or Portable Document Format (PDF) at: http://www.fcc.gov/cgb/policy/.

Synopsis

On March 4, 2010, Global Tel*Link Corporation (Global Tel) filed a Petition for Expedited Clarification and Declaratory Ruling regarding applicability of the Telephone Consumer Protection Act (TCPA) and Federal Communications Commission (FCC or Commission) rules to its calling practices. Specifically, Global Tel asks the Commission to declare that the TCPA and associated FCC rules are inapplicable to Global Tel’s use of automatic notifications before
completing calls to certain persons
dialed by prison inmates.

According to the Petition, correctional
facilities contract with Global Tel to
provide out-bound communication
services for incarcerated persons. When
an inmate without a pre-paid calling
card or debit calling account sanctioned
by the correctional facility attempts to
call an individual for the first time, and
that individual is not served by a local
exchange carrier with which Global Tel
has a billing arrangement or the inmate
has dialed a called party’s cell phone,
the call cannot be completed unless and
until a billing arrangement with the
called party is established. Once the
inmate dials the desired number, Global
Tel captures the number and initiates an
automated interactive voice response
notification to inform the called party
that an incarcerated person is
attempting to contact him or her and the
called party must establish an account
in order to receive the call. Global Tel
makes three attempts to notify the called
party to establish an account to receive
inmate calls. Without the relief
requested in the Petition, according to
Global Tel, it is exposed to risk of
unnecessary litigation from persons
bringing private actions under the
TCPA.

In relevant part, the TCPA regulates
the use of automated telephone
equipment. Section 227(b)(1)(B) of the
TCPA makes it unlawful to place a non-
emergency telephone call to a
residential line “using an artificial or
prerecorded voice” without the
recipient’s consent. Unless the call is
“exempted by rule or order of the
Commission under paragraph (2)(B).”
Paragraph (2)(B), in turn, authorizes the
Commission to enact limited
exemptions from this ban, including an
exemption for calls “that are not made
for a commercial purpose” or “do not
include the transmission of any
unsolicited advertisement.” Further,
section 227(b)(1)(A) of the TCPA
prohibits the use of any automatic
telephone dialing system or an artificial
or prerecorded voice to call any
telephone number assigned to a cellular
telephone service absent an emergency
purpose or the “prior express consent
of the called party.” Section 227(b)(2)(C)
gives the Commission authority to
exempt from this prohibition only those
calls “to a telephone number assigned to a
 cellular telephone service that are not
called to the called party, subject to
such conditions as the Commission may
prescribe as necessary in the interest of
the privacy rights the provision is
intended to protect.”

Global Tel presents several arguments
to support its request for a declaratory
ruling. First, Global Tel argues that the
automated notification calls that it
places to inform a called party that an
incarcerated person has dialed the
party’s telephone number and that a
payment account is required to receive
the call are not solicitation or
telemarketing calls, but instead simply
inform a called party how to establish
an account for the purpose of receiving
calls from an inmate. Global Tel asserts
its notification calls should be exempt
pursuant to section 227(b)(2)(B) of the
TCPA because the calls are not made for
a commercial purpose and do not
transmit an unsolicited advertisement.
Global Tel further asserts that the
Commission’s ruling that autodialed
and prerecorded voice messages calls to
wireless numbers that are provided by
the called party to a creditor in
connection with an existing debt are
permissible as calls made with the
“prior express consent” of the called
party makes its prerecorded message
calls to parties called by inmates
permissible. Global Tel contends that
the inmate possesses the prior express
consent of the called party to be
contacted at the number provided.
Global Tel states that its interactive
voice recognition platform is neither a
direct marketing nor a form of
autodialing as contemplated by the
TCPA. Lastly, Global Tel argues that
although the TCPA should not apply to
its notification calls and practices, these
calls and practices meet the technical
and procedural standards for artificial or
prerecorded voice systems set forth in
section 227(d)(3) of the TCPA.

Federal Communications Commission.

Colleen Heitkamp,
Division Chief, Consumer and Governmental
Affairs Bureau.

[FR Doc. 2010–15950 Filed 6–29–10; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and
Mergers of Bank Holding Companies

The companies listed in this notice
have applied to the Board for approval,
pursuant to the Bank Holding Company
(BHC Act), Regulation Y (12 CFR Part
225), and all other applicable statutes
and regulations to become a bank
holding company and/or to acquire the
assets or the ownership of, control of, or
the power to vote shares of a bank or
bank holding company and all of the
banks and nonbanking companies
owned by the bank holding company,
including the companies listed below.

The applications listed below, as well as
other related filings required by the
Board, are available for immediate
inspection at the Federal Reserve Bank
indicated. The applications also will be
available for inspection at the offices of
the Board of Governors. Interested
persons may express their views in
writing on the standards enumerated in
the BHC Act (12 U.S.C. 1842(c)). If the
proposal also involves the acquisition of
a nonbanking company, the review also
includes whether the acquisition of the
nonbanking company complies with the
standards in section 4 of the BHC Act
noted, nonbanking activities will be
conducted throughout the United States.

Additional information on all bank
holding companies may be obtained from
the National Information Center
website at www.ffiec.gov/nic/.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices;
Acquisition of Shares of Bank or Bank
Holding Companies

The noticelistings below have applied
under the Change in Bank
Control Act (12 U.S.C. 1817(j)) and
§ 225.41 of the Board’s Regulation Y (12
CFR 225.41) to acquire a bank or bank
holding company. The factors that are
considered in acting on the notices are
set forth in paragraph 7 of the Act (12
U.S.C. 1817(j)(7)).

The notices are available for
immediate inspection at the Federal
Reserve Bank indicated. The notices
also will be available for inspection at
the office of the Board of Governors.

Interested persons may express their
views in writing to the Reserve Bank
indicated for that notice or to the offices
of the Board of Governors. Comments
must be received not later than July 16,
2010.

A. Federal Reserve Bank of
Minneapolis (Jacqueline G. King,
Community Affairs Officer) 90
Hennepin Avenue, Minneapolis,
Minnesota 55440-0291:

Paul Bennett Lewis, Mendota
Heights, Minnesota, to become co-
trustee of the 2004 Children’s Trust,
2004 Grandchildren’s Trust, and 2005
Grandchildren’s Trust to gain control of
Fidelity Holding Company, Minnetonka,
Minnesota, and thereby gain control of
Fidelity Bank, Edina, Minnesota.

Board of Governors of the Federal Reserve

Robert deV. Frierson,
Deputy Secretary of the Board.

[FR Doc. 2010–15860 Filed 6–29–10; 8:45 am]